

Application No. 09/646,790

Docket No. 200-19

Amendment

Response to Office Action dated August 19, 2003

REMARKS

The foregoing amendments and these remarks are in response to the Final Office Action dated August 19, 2003. This response is accompanied by a Request for Continued Examination (RCE) and a request for retroactive extension of time of three months, and authorization to charge Deposit Account No. 50-0951 the appropriate fees therefor.

At the time of the Office Action, claims 9-23 were pending in the application. Claims 16, 17, and 21-23 were withdrawn from consideration. In the Office Action, the drawings were disapproved. The specification was objected to under 35 U.S.C. §132. Claims 9-11, 14, 15, and 18-20 were rejected under 35 U.S.C. §102(a). Claims 12-13 were rejected under 35 U.S.C. §103(a). The objections and rejections are set out in more detail below.

Applicant respectfully requests that the Examiner reconsiders the claims previously presented in light of these remarks, and also reconsiders the finality of the Office Action.

I. Added matter rejections

Applicant wishes first to address in detail the added matter rejections in connection with the specification, claims and drawings. The Office Action asserts that the original disclosure does not support the showing of two bottles in Figure 2. Further, the original claim 1 is asserted not to support the particular structure of the two bottles as illustrated in the amended Figure 2. The specification is also alleged not to support two bottles, one filled with solvent and the other filled with pigment. Finally, the Office Action asserts that claims 7 and 10 require the two bottles to be different, but claims 7 and 10 have been withdrawn from consideration for being directed to a non-elected species.

Applicant reiterates that the PCT application as originally filed clearly supports the disclosure of two bottles. Support in the application as filed is to be determined on the disclosure of the application as a whole, and the subsequent fate of any claims or any portion of the application should not be taken into consideration.

In illustration of the support in the application as filed, on page 1, lines 5-7 of the application, the specification states "[a] particular object of the invention is to prevent unwanted confusion between two reservoir bottles filled with distinct fluids due precisely to the use of simple

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bottles." Page 6, lines 7-10 states that "[t]he methods described are suitable for determining the pigment fluid in particular. To detect the solvent, it is advantageous to simply record...". Page 9, lines 3-5 states: "[a]dditionally it is provided with at least one reservoir bottle 24 accommodated in a holding device 22, said bottle containing a fluid, for example a pigment or a solvent." Claim 1 as originally filed states: "characterized in that at least two reservoir bottles (24) with various fluids (30) are provided". Claims 7 and 10 as filed recite "two or more reservoir bottles (24) with various fluids (30)" and "at least two holding devices (22) for reservoir bottles (24) with various fluids (30)" respectively. Thus, clearly the application as filed contemplated the use of two bottles having different fluids. The specification gives examples of the fluids contained by the bottles as a pigment and a solvent. Applicant urges the Examiner to reconsider this issue.

Turning now to the number of bottles contemplated by original claim 1, as noted previously, the claim is in the PCT style where subject matter believed to be prior art is placed before the words "characterized in that" and subject matter believed to be novel is placed after the words "characterized in that". Thus the phrase "characterized in that" may be understood to be similar to the phrases "the improvement comprising" or "wherein". The fact that prior to the words "characterized in that", the claim recites "at least one exchangeable reservoir bottle" simply means that it was known at the time of filing the application to use one exchangeable reservoir bottle. Claim 1 as filed provides "at least two reservoir bottles". The "reservoir bottles (24) are provided with a label", and "the label (38) is fed into the computer when inserting a new reservoir bottle". There is an arrangement to detect the quantity of fluid "drawn from the reservoir bottle", and a "reservoir bottle empty" signal is delivered when "the reservoir bottle is empty". The use of the word "the" clearly refers back to a previously recited bottle, and does not imply that an additional bottle is introduced.

Applicant again fails to see how this claim can be interpreted as requiring at least four bottles. Although the translation from the original German is not perhaps as clear as it could have been, clearly the claim contemplates at least two bottles, each of which can be exchanged when emptied. In any event, support should be taken from the application as filed, not from one claim viewed in isolation. Applicant urges the Examiner to reconsider the rejections.

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Furthermore, claims 7 and 10 as filed recite "two or more reservoir bottles (24) with various fluids (30)" and "at least two holding devices (22) for reservoir bottles (24) with various fluids (30)" respectively. Irrespective of the subsequent fate of these claims, clearly the application as filed contemplates the use of two reservoir bottles filled with various fluids.

The amendments to the drawings were filed in order to show in the drawings all the features mentioned in the claims, as required by the Examiner in the first Office Action. The amendment to show two bottles is therefore supported by the application as filed. Applicant further amends figure 2 herein to show the two bottles having a different structure. As no particular structure is recited in the application as filed, applicant believes that the amended drawings are fully supported.

II. Objections to Claims

As discussed previously, claims 16, 17, and 21-23 were withdrawn from consideration by the Examiner as being directed to the non elected species II and the new Fig. 2. During the April 17, 2002 telephone call from the Examiner to Applicant's representative, the Examiner asserted that species II relates to the embodiment of the original figure 2 and claim 8. This assertion was confirmed in the Office Action of May 8, 2002. Claim 8 recited a machine readable label. Claim 1 was generic between species I and II. If an independent generic claim is held to be allowable, claims which are dependent on the generic claim should also be allowable. Thus, claims 16 and 17 are believed allowable because of their dependence upon new claim 9, which is generic between species I and II in the same manner as original claim 1.

Claims 21-23 are directed to the amended Figure 2, but these claims do not recite a machine readable label, which was the feature originally listed as comprising species II. Thus, claims 21-23 are not believed to read on to species II and should be considered for further examination.

For the foregoing reasons, claims 16, 17 and 21-23 are considered to be improperly withdrawn from consideration. Further consideration of these claims is respectfully requested.

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III. Objections to Drawings

The proposed drawing corrections were disapproved under 37 CFR §1.21(a)(6) because they were deemed introduce new matter into the drawings. In particular, the Office Action asserts that the original disclosure lacks support for the showing of two bottles in figure 2, and because the original claim 1 was asserted to recite four bottles, not two. Further, the original claim 1 was asserted to lack support for the particular structure of the two bottles illustrated in amended figure 2.

The amendments to the drawings were filed in order to show in the drawings all the features mentioned in the claims, as required by the Examiner in the first Office Action, and specifically the claims reciting at least two bottles. The amendment to show two bottles is therefore supported by the application as filed. Applicant further amends figure 2 herein to show the two bottles having a different structure. As no particular structure is recited in the application as filed, applicant believes that the amended drawings are fully supported.

Reconsideration of the objections to the drawings is respectfully requested.

III. Objections to Specification

The disclosure was objected to under 35 U.S.C. §132 for introducing new matter into the disclosure. In particular, the Office Action stated that there was no support in the application as filed for two bottles, one filled with solvent and the other with pigment. To the contrary, Applicant notes that on page 3, line 5 to page 3, line 7, the specification states "[a] particular object of the invention is to prevent unwanted confusion between two reservoir bottles filled with distinct fluids due precisely to the use of simple bottles." Claim 1 of the PCT application as filed recites "at least one exchangeable reservoir bottle filled with a previously known quantity of a fluid, such a solvent or pigment. This disclosure can be read in conjunction with claims 7 and 10 of the PCT application as filed which state that there are two or more reservoir bottles with various fluids (claim 7), or that there are at least two holding devices for reservoir bottles with various fluids (claim 10). It is thus submitted that the use of two reservoir bottles containing different fluids, specifically solvent or pigment, is supported by the application as filed. Nevertheless, Applicant

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amends the specification herein to more closely track the wording of the application as filed. Withdrawal of the objections to the specification is therefore respectfully requested.

IV. Claim Rejections on Art

Turning now to the rejections on art, claims 9-11, 14, 15, and 18-20 were rejected under 35 U.S.C. §102(a) as being anticipated by US Patent No. 5,788,388 to Cowger et al. ("Cowger"). Claims 12-13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Cowger in view of US Patent No. 5,369,429 to Erickson ("Erickson"). Applicant submits that the features of claims 9 and 21 are not disclosed or suggested by the prior art.

Regarding the cited art, Applicant notes that Cowger does not relate to an ink jet printer but to an ink jet cartridge with ink level detection. Figure 1 of Cowger relates to a specific part of a printer, namely an ink jet cartridge. Notably, Cowger does not teach an intermediate container which is recharged. The Office Action states that the item referred to as an intermediate container is structure 32 and not well 76, as Applicant discussed in the previous response. Cowger refers to structure 32 as a print head (see column 2, line 57). A print head is not an intermediate container. It is the part of the printer that ejects the ink onto the surface. There is no teaching or suggestion in Cowger that print head 32 actually stores any ink.

The item which the Office Action refers to as the label in Cowger is item 20, which is a cartridge memory chip. A memory chip requires the provision of electronic circuitry as part of the cartridge itself. This teaches away from the present claims, which use bottles. As mentioned in the application, it is an aim of the application to provide simple "reasonably priced" bottles. Clearly, a memory chip is a more complicated arrangement than that contemplated in the present claims.

Nevertheless, in order to further differentiate the present claims from Cowger, Applicant herewith amends claims 9 and 21 to recite that the label is "externally visible". There is no teaching or suggestion in Cowger that any externally visible label is provided on the reservoir bottle which carries coded information about the fluid contained in the bottle, nor that there are any means allowing the label information to be fed into the computer when the bottle is inserted into the printer.

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Furthermore, there is no teaching or suggestion in Cowger that there is any test program to check the label information and allows normal operation of the printer when at least one test criterion is acceptable. The Office Action asserts that in Cowger, column 6 refers to a test program. However, Cowger only checks if there is a cartridge inserted in the printer, and if there is ink in the cartridge. Claim 9 of the present application clearly states that the label "carries coded information about the fluid contained in the reservoir bottle". Cowger is not checking any information about the ink in the cartridge, simply that there is ink present, which in the printer defined in the present claims is carried out by the sensor arrangement that detects the quantity of fluid drawn from the reservoir bottle.

For the foregoing reasons, the independent claims are believed patentable and in condition for allowance. The dependent claims are also believed allowable because of their dependence upon an allowable base claim, and because of the further features recited.

V. Conclusion

Applicant has made every effort to present claims which distinguish over the prior art, and it is believed that all claims are in condition for allowance. Nevertheless, Applicant invites the Examiner to call the undersigned if it is believed that a telephonic interview would expedite the prosecution of the application to an allowance. In view of the foregoing remarks, Applicant respectfully requests reconsideration and prompt allowance of the pending claims.

Respectfully submitted,

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